

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ROBERT LEE BAILEY,

Plaintiff,

Case No. 2:07-CV-115

v.

HON. GORDON J. QUIST

CHRISTOPHER GOLLADAY, et al.,

Defendants.

ORDER APPROVING REPORT AND RECOMMENDATION

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. The Report and Recommendation was duly served on the parties on May 23, 2008. No objections have been filed pursuant to 28 U.S.C. § 636(b)(1)(c). Defendants Caruso, Daniels, McDonald, Sherry and Theut are entitled to summary judgment because Plaintiff did not properly exhaust his administrative remedies against these defendants. Although Plaintiff did file grievances naming these defendants, those grievances were rejected because they were untimely and duplicative. Furthermore, even if Plaintiff did exhaust his administrative remedies against these defendants, they would still be entitled to summary judgment for lack of personal involvement in the alleged constitutional violation. Plaintiff did pursue administrative remedies against Defendants Golladay, Forrest, Mahar, Storey and Duvall. While these defendants are entitled to judgment on Plaintiff's due process claim under *Parratt v. Taylor*, 451 U.S. 527 (1981), they are not entitled to summary judgment on Plaintiff's remaining claims.

Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation of the Magistrate Judge (docket no. 36), is **APPROVED AND ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (docket no. 25) for failure to exhaust administrative remedies is **GRANTED** with respect to Defendants Caruso, Daniels, McDonald, Sherry and Theut.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment (docket no. 28) is **GRANTED IN PART AND DENIED IN PART**. The motion is **GRANTED** with respect to Plaintiff's due process claim. The motion is **DENIED** with respect to Plaintiff's remaining claims against Defendants Golladay, Forrest, Mahar, Storey and Duvall.

Dated: June 18, 2008

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE